

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

In re

Vicky Rodríguez Torres
Debtor

Bankruptcy Case 09-10864 (BKT)

CHAPTER 7

Government Development Bank of Puerto Rico Plaintiff **Adversary Proc. 10-00139 (BKT-7)**

**Nondischargeability under 11 U.S.C.
§523(a)(6) for willful and malicious
injury**

Vicky Rodríguez Torres
Defendants

MOTION FOR SUMMARY JUDGMENT

TO THE HONORABLE COURT:

COMES NOW, Plaintiff, the Governmental Development Bank of Puerto Rico (hereinafter “GDB”), through the undersigned counsels, and pursuant to Rule 56 of the Federal Rules of Civil Procedure and Civil Local Rules 7.1 and 56, hereby submits its Motion for Summary Judgment.

As is more fully discussed in the accompanying Memorandum of Law and Statement of Material Facts, section 523(a)(6) of the Bankruptcy Code provides that any debt for willful and malicious injury by the debtor to another entity is not dischargeable. See 11 U.S.C. §523(a)(6). Several courts have interpreted this section as exempting from discharge awards of attorneys’ fees premised on vexatious and bad faith behavior of the Debtor in other judicial proceedings.

On April 12, 2010, the United States District Court for the District of Puerto Rico issued an Opinion and Order in the case of Vicky Rodríguez Torres, et al. v. Government Development Bank of Puerto Rico, et al., Civil Case No. 09-1151 (JP) (hereinafter “Rodríguez I”) granting the GDB an award of attorneys’ fees in the amount \$41,416.25. The District Court’s findings of fact in support

of its decision explicitly referred to Debtor's vexatious and unreasonable litigation behavior as the cause for the GDB's and the Court's waste of time and efforts during the litigation of Rodríguez I. Particularly, the Order was premised on Rodríguez, her co-plaintiff's and her counsel's unnecessary and unreasonable multiplication of the proceedings, their unreasonable behavior and disregard of Court's orders, as well as their frivolous and baseless claims, among other inappropriate behavior.

On August 11, 2010, based on section 523(a)(6), the GDB filed the instant Adversary Proceeding seeking a judgment of non-dischargeability of the attorney's fees award granted by the District Court in Rodríguez I. In addition, this case presents no controversy of facts, since it is premised on the District Court's findings of fact which, in turn, constitute res judicata for all relevant purposes. Consequently, summary judgment is a proper mechanism to solve the present case since the only issue to be determined in this proceeding is a question of law.

GDB respectfully understands that, after an analysis of the Statement of Material Facts and the Memorandum of Law in support of the present Motion for Summary Judgment, this Honorable Court will be in a position to determine that there is no genuine issue as to any material facts and that summary judgment in favor of Plaintiff is appropriate as a matter of law.

WHEREFORE, for the reasons set forth in the attached Memorandum of Law and Statement of Material Facts, GDB respectfully requests this Honorable Court to enter Summary Judgment in GDB's favor and, thus, determine that the award of attorneys' fees granted by the District Court in Rodríguez I is nondischargeable under §523(a)(6).

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 18th day of October 2010.

CERTIFICATE OF SERVICE.

IT IS HEREBY CERTIFIED that on this same date, the foregoing was filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to CM/ECF participants, and caused it to be served on the next business day via a third party court authorized noticing provider BK Attorney Services to: William Meléndez, Esq., 410 Park Avenue 15th Floor #1223, New York, NY 10022.

SCHUSTER AGUILÓ LLP
PO Box 363128
San Juan, Puerto Rico 00936-3128
Tel: (787) 765-4646; Fax: (787) 765-4611

s/ Andrés C. Gorbea Del Valle
Andrés C. Gorbea Del Valle
USDC PR No. 226313
agorbea@salawpr.com

SONIA COLÓN LAW OFFICES, P.A.
P.O. Box 621597
Orlando, Florida 32862-1597
Telephone: 407-574-8272
Facsimile: 888-537-4536

s/ Sonia E. Colón
SONIA E. COLÓN
USDC PR No. 213809
sonia@soniacolonlaw.com